

Approved

3/3/89

Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson

9:00 a.m./~~p.m.~~ on THURSDAY, MARCH 2, 1989 in room 529-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Bill Wolff, Legislative Research
Bill Edds, Revisor's Office
Louise Bobo, Committee Secretary

Conferees appearing before the committee:

Donna Voth, Administrative Aide, Sen. Johnston
Marlin Rein, Associate Director of Business Affairs, UKMC
Richard Mason, Kansas Trial Lawyers
Harold E. Riehm, Association of Osteopathic Medicine
Chip Wheelen, Kansas Medical Society

Chairman Bond called the meeting to order at 9:13 a.m.

SB 203 - Donna Voth, Administrative Aide to Sen. Johnston, appeared in support of this bill. According to Ms. Voth, this bill would create the Health Equity Liability Plan (HELP) which provides for a reduction of up to \$15,000 each year in the surcharge that a doctor pays into the Health Care Stabilization Fund. Ms. Voth advised that, after discussion with the University, the sponsors of the bill are suggesting that administration of the plan be placed under the Commissioner of Insurance rather than the University as originally drafted. The reduction in the surcharge for an individual physician may not exceed \$15,000, and the total amount reduced for all eligible physicians cannot exceed \$2 million in any year. Ms. Voth stated that one of the goals of this program is to ensure the availability of adequate medical services in all parts of the state. The HELP plan is merely a partial subsidy for doctors who are proven to need it the most. (attachment 1)

Appearing in behalf of SB 203 was Marlin Rein, KUMC, who stated that the bill had two major purposes: (1) it would lower from 50 to 25 the number of new scholarships that could be awarded each year to students in the University of Kansas School of Medicine and (2) the bill would offer financial assistance through partial relief of the HCSF surcharge for physicians who meet eligibility guidelines laid out in the act. Continuing, Mr. Rein stated that the University would prefer that the limit of scholarships be left at 50 to help ensure that any student who wishes a scholarship or who needs financial aid would be afforded that support. The University would also hope for an alternative funding source for the program as it is their strong feeling that the Medical Scholarship Repayment Fund should be used only for medical scholarships. (attachment 2)

Richard Mason, Kansas Trial Lawyers, appeared in support of SB 203. He told the committee that this bill provided a means to target doctors whose malpractice premiums may cause them to leave our state or discontinue certain services. Mr. Mason further stated that tort reforms, including a constitutional amendment, which he opposes, would take years to implement. (attachment 3)

Harold E. Riehm, Association of Osteopathic Medicine, stated that his organization had several concerns regarding this proposal. First, his organization felt that the medical scholarship program should not be tampered with and, secondly, they have serious reservations about dipping into the general fund to supplement the medical scholarship fund.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p~~m. on THURSDAY, MARCH 2, 1989.

Chip Wheelen, Kansas Medical Society, appeared in opposition to SB 203. He stated that his organization advocated the enactment of certain tort reform measures designed to improve the efficiency of our legal system and thus stabilize spiraling insurance losses and premiums. Because it is apparent that it will be necessary to pursue a constitutional amendment to accomplish these aims, alternate relief for health care providers needs to be found while the long term solutions provided by way of statutory tort reforms are pursued. Mr. Wheelen opposed this bill for three primary reasons: (1) scholarship repayment moneys should be recycled to finance new medical scholarships (2) the bill would utilize the Scholarship Repayment Fund to finance the cost of subsidizing medical malpractice insurance premiums and (3) the bill would reduce the number of medical scholarships awarded each year from 50 to 25. (attachment 4)

Chairman Bond declared the hearings on SB 203 closed and the meeting adjourned at 10:02 a.m.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

Thurs. Mar 2

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(Please print)

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DATE	NAME	ADDRESS	REPRESENTING
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	Chip Wheelon	Topeka	KMS
	AROLA KLEAM	TOPEKA	KAOM
	Donna Jott	Topeka	Sen. Johnston
	R.G. FREY	TOPEKA	KTLA
	Richard Mason	"	"
	John Peterson	"	4th Floor
	Ken Josseland	Lawrence	KU

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Senate Financial Institutions and Insurance Committee

Senate Bill 203 - Health Equity Liability Plan Act

March 2, 1989

Statement by Senator Michael L. Johnston

Thank you, Mr. Chairman and members of the Committee, for the opportunity to present this statement in support of Senate Bill 203.

This bill is intended to provide immediate relief for doctors whose premiums are forcing them to quit providing certain services because they can no longer offer those services on a sound business basis. The bill creates the Health Equity Liability Plan (HELP) which provides for a reduction of up to \$15,000 each year in the surcharge that a doctor pays into the Health Care Stabilization Fund.

Under Senate Bill 203 as originally drafted, a doctor would make application to the Chancellor of the University of Kansas for a reduction of his or her surcharge to the fund. However, after discussion with a representative from the University who stated that administration by the University would be difficult and costly, we are suggesting that the bill be amended to change the administration to the Commissioner of Insurance.

*Attachment 1
Sen. Fin Inst & Ins
3/2/89*

Specific requirements for eligibility for a reduction would be set by the Insurance Commissioner within the following general guidelines set out in the bill:

1. the ratio of a physician's annual premium to gross revenue
2. acceptance of medicaid/medican and medically indigent patients
3. availability of medical services in the physician's service area

Information submitted in an application which relates to the applicant's gross revenues would be confidential. Applications must be submitted by November 15, 1989, and by May 15 of each year thereafter. The Insurance Commissioner would notify each applicant on January 1, 1990, and on July 1 of each year thereafter, whether or not they are eligible, and if so, the amount of their reduction. The reduction may not exceed \$15,000, and the total amount reduced for all eligible physicians cannot exceed \$2 million in any year. The Commissioner is authorized to prorate if the total amount of reductions for all eligible physicians exceeds \$2 million in any year.

Reductions to the Health Care Stabilization Fund under this program would be reimbursed by the Medical Scholarship Repayment Fund supplemented by the state general fund, if there are not sufficient funds in the Medical Scholarship Fund. Authorization for medical scholarships would be cut from 50 to 25 per year. Reducing the number of scholarships available should not adversely impact the medical scholarship program, because fewer

Johnston statement, S.B. 203, p. 3

students are applying for the program. Only 22 scholarships were awarded this year. Use of these funds for this program is entirely appropriate since one of the goals of the HELP plan is the same as that of the medical scholarship program -- to assure that medical services are available in medically underserved areas.

Many doctors have already quit providing certain services, most notably obstetrics, because of high insurance premiums. It is interesting to note that according to the 1988 Kansas Medically Underserved Areas Report, the number of active physicians in Kansas increased significantly over the past year, however the number of Kansas counties designated as critically underserved in primary care also increased. In 1987, 52 Kansas counties were designated as critically underserved in primary care. In 1988 that number increased to 58 counties--over half of the counties in Kansas. The number of critically underserved counties has almost doubled in the past 5 years.

This bill is aimed at ensuring the availability of adequate medical services in all parts of the state, and would hopefully reverse the trend toward an ever-increasing number of medically underserved counties in our state. Unlike many approaches whose results are uncertain and may take years to materialize, the HELP act is designed to deal with the problem of availability of medical services today.

The concept of subsidizing physicians for their malpractice

Johnston statement, S.B. 203, p. 4

premiums is not new in Kansas. The HELP plan is based on the same principle we've applied to our full-time faculty at the University of Kansas Medical Center in self-insuring those faculty physicians. The HELP plan is merely a partial subsidy for doctors who are proven to need it the most.

Finally, I stand ready to work out any details of the bill which cause problems to the committee or to persons who would be affected by it. I urge your serious and favorable consideration of Senate Bill 203.

Testimony - Senate Bill 203
(Marlin L. Rein - K.U.M.C.)
March 2, 1989

I am pleased to testify on behalf of the University of Kansas Medical Center on Senate Bill 203. As introduced, the bill has two major purposes. First, it would lower from 50 to 25 the number of new scholarships that could be awarded each year to students in the University of Kansas School of Medicine. Second, the bill attempts to offer financial assistance through partial relief of the Health Care Stabilization Fund surcharge for physicians who meet eligibility guidelines laid out in the act. The bill provides that administration of this program would be vested with the University of Kansas Medical Center and provides that any expenditures in support of the program up to a maximum amount of \$2,000,000 per year or an individual maximum of \$15,000 would be financed from the Medical Scholarship Repayment Fund.

With regard to the reduction in the number of medical scholarships to be awarded, the University of Kansas Medical Center has reservations concerning this proposed change. In past years, through the Appropriations Act, the Legislature has at times allowed the institution to award fewer than 50 scholarships. For the current year, the appropriations provided for 50 new scholarships and the proposal for next year is for the same number. In recent years, the number of scholarships applied for has varied significantly, and there have been relatively fewer applicants than in the early years of the program. This reduced interest is obviously related to the much more stringent conditions which recipients must meet in order to satisfy the repayment obligations. In the current year, although we were authorized to award 50 scholarships, only 22 were granted. A year ago 43 scholarships were

*Attachment 2
Sen. Fin. Justit. & Ins.
3/2/89*

awarded. It would be our preference that the statutory limit be left at 50, and that the number of scholarships to be awarded be determined annually through the appropriations process. It is our sincere belief that any student who wishes a scholarship or who needs financial aid in order to attend medical school should be afforded that level of support.

With regard to the other and more significant component of the bill, the University of Kansas position can best be described as being supportive of the attempt of the sponsors to address in a limited way, what is a major problem in the health care industry. We have reservations with the provisions that would vest administrative responsibility for the program with the University of Kansas Medical Center. We do not now have that capability, and the fiscal note that would be necessary to provide us the wherewithal to effectively administer the program suggests that perhaps other agencies would be better able to assume this responsibility at a lesser cost.

The other consideration of which the committee should be aware relates to the use of the Medical Scholarship Repayment Fund for this purpose. We obviously feel strongly that the first responsibility, and currently the only statutory authorization for the use of those funds, is for the financing of medical scholarships. Over the past several years, the level of receipts has consistently exceeded the funding necessary for the Medical Scholarship program alone, and the Legislature has utilized the funds for other purposes. A year ago, a one-time appropriation of \$400,000 was authorized from the fund to assist the institution in meeting medical malpractice costs. For Fiscal Year 1990, the Governor is recommending that an amount of \$500,000 be utilized in direct support of the institutional operating budget.

As introduced, SB 203 provides that the assistance program would be operational upon publication in the Kansas Register, with physicians to make application by May 15. Notification and payment of the surcharge subsidy would be accomplished on July. We have two concerns in this regard, one being whether such a program could effectively be put into place within that limited time frame. Second, the requirement that the level of support provided would be dictated by the funds available in the Medical Scholarship Fund on any specific date might have the affect of significantly reducing the level of the program. While the balance we project in the fund as of July 1, 1989, is in the neighborhood of \$1.7 million, there is a significant commitment against those resources in August, 1989 when medical scholarships for the new school year must be awarded recipients. Projecting ahead to Fiscal Year 1991, even if the Legislature were to reduce the number of new scholarships to 25, and the Legislature also discontinued the practice of using the fund for other purposes, it is likely that the balance in the fund as of July 1, 1990, would be significantly less than we project for July 1, 1989. In other words, specifying that the surcharge assistance awards would be approved on a given date based on the funds available on that date could have the impact of significantly reducing the scope of the programs.

In conclusion, our concern about reducing the number of scholarships to be awarded from 50 to 25 is that a student in need of financial support in order to attend Medical School should not be denied that opportunity. Second, with regard to the more significant aspects of the bill, we are sympathetic to the purposes that the sponsors are attempting to achieve but we hope that some modifications could be explored. Those include the relocation of administrative responsibility for the program, and some alteration of either

the funding source for the program, or at least a change in the target dates specified in the act. Additionally, if the Repayment Fund is to be used for such purpose, KSA 76-376 should be amended to broaden the purposes for which the fund can be used.

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March 2, 1989

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Senator Dick Bond, Chairman
 Senate Financial Institutions
 and Insurance Committee
 State Capitol
 Topeka, KS 66612

Dear Senator Bond:

The Kansas Trial Lawyers Association encourages you and your Committee to recommend SB 203 favorably for passage.


SB 203 is one of several measures before the Legislature that would provide immediate, direct relief to qualifying health care providers from their medical malpractice insurance premiums. Our association supports the concept of these bills. It is based upon the fact that there is a relationship between the significance of an individual's insurance bill and his or her income.

Statistically, physicians nationally and in Kansas are doing quite well financially and that's fine. They work long hours and provide a vital service to our society. However, it is apparent ~~question~~ that some, particularly in rural areas, don't have the gross income others do. Yet they have to pay the same liability rates as their counterparts in the urban areas.

SB 203 addresses this legitimate problem. It provides a means to target doctors whose malpractice premiums may cause them to leave our state or discontinue certain services.

Tort reforms, including a constitutional amendment, may or may not affect insurance premiums. It is at least debatable. And no one argues with the fact that a constitutional amendment will take years to even have a chance to impact premiums.

To the extent we have a true "crisis" in rural health care, and malpractice insurance costs are involved, SB 203 offers a method to help solve the problems.

Sincerely,

 Richard H. Mason
 Executive Director

cc: Senate Financial Institutions and Insurance Committee Members
 sjs

*Attachment 3
 Sen. F. I & I
 3/2/89*



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

March 2, 1989

TO: Senate Financial Institutions and Insurance Committee
FROM: Kansas Medical Society *Chip A. Deelen*
SUBJECT: Senate Bill 203, As Introduced

The Kansas Medical Society appreciates this opportunity to express our opposition to the provisions of Senate Bill 203. We want to first acknowledge, however, that we truly appreciate the sincerity of the sponsors of this legislation who obviously are attempting to deal with a genuine crisis in terms of access to health care in rural areas of Kansas. This is, indeed, a crisis situation as recently evidenced by the 1988 Medically Underserved Areas Report by the University of Kansas Medical Center. This recently released report indicates that while urban areas of Kansas are enjoying the benefits of increasing physician numbers, the rural areas of our state continue to suffer in terms of limited access to health care.

In 1988, six more counties were added to the list of critically medically underserved counties for a total of 58. In other words, well over half of the counties in our state are medically underserved based on the physician to population ratios employed by the University. The Kansas Medical Society agrees that the crisis in access to health care demands that actions be taken to try and alleviate the continued loss of physicians who practice in rural areas of our state. Every effort should be made to retain those physicians who are currently practicing medicine in Kansas and to recruit new physicians who complete their training. Similar efforts should be designed to assist in recruiting and retaining qualified physician faculty members to teach at the University of Kansas School of Medicine, in order to assure future access to quality health care in our state.

For several years, the Kansas Medical Society has advocated the enactment of certain tort reform measures designed to improve the efficiency of our legal system and thus, stabilize spiraling insurance losses and premiums. These tort reform measures included limits on noneconomic damages. Because of judicial interpretations, it is clear that such limitations will never be implemented and that it is, therefore, necessary to pursue a constitutional amendment in order to do so. The Kansas Medical Society agrees that this process is arduous and slow. Therefore, it is necessary to consider forms of immediate premium relief for health care providers while we continue to pursue the long term solutions provided by way of statutory tort reforms.

The Kansas Medical Society has not in the past, nor do we at the present, ask the Legislature for direct financial assistance for our members in order to alleviate the burden of extremely high medical malpractice insurance premiums. This position was recently ratified during a meeting of our Executive Committee last Friday, February 24, 1989.

*Attachment of
Sen. 7101
3/2/89*

Furthermore, the Kansas Medical Society has, for several years, maintained the position that scholarship repayment moneys should be recycled to finance new medical scholarships. Senate Bill 203 would utilize the Scholarship Repayment Fund to finance the cost of subsidizing medical malpractice insurance premiums. In addition, this bill would reduce the number of medical scholarships awarded each year from 50 to 25. Obviously, the Kansas Medical Society cannot endorse such a proposal.

As I mentioned before, it is important that the Kansas Medical Society and the Legislature work together in an effort to provide immediate premium relief so that we can at least attempt to recruit and retain physicians. It is, however, very difficult to approach the concept of premium relief under the current law which mandates a minimum of \$3.2 million per occurrence and \$6.6 million annual aggregate liability coverage for all health care providers. Furthermore, we are frequently reminded that because the 1976 Legislature chose to establish the Health Care Stabilization Fund to operate on a cash flow basis, rather than an accrued basis, and imposed a statutory limitation which caused a major discrepancy between assets and liabilities, health care providers are now amortizing a revenue deficiency that still exceeds \$30 million. This is particularly unfair to young physicians who were not practicing medicine during those years when the fund surcharge was artificially suppressed. This is all the more reason that it is so extremely difficult to recruit new physicians to come to Kansas.

We have, however, been working diligently with the House Insurance Committee in efforts to develop an improved Health Care Stabilization Fund law. We are confident that the Senate will soon be considering at least one bill, if not more, containing numerous amendments to the law which governs the operation of the Health Care Stabilization Fund. This will include provision for optional levels of excess coverage with a million dollar maximum. There are no guarantees that these changes will result in immediate premium relief for all health care providers. The assumption is made that there will be opportunities for physicians and other health care providers to reduce the burden of the cost of liability insurance. We are extremely hopeful and optimistic that these amendments will, indeed, accomplish those goals.

In the final analysis, however, it is essential that we continue to pursue ways of improving the efficiency of a litigation system which results in less than half the dollars expended for compensation of patients who have somehow been injured. It is extremely important that we not forget that tort reform has had beneficial effects in other states which have enacted tort reform measures that have been upheld by their respective supreme courts and have been allowed to be implemented. These stabilizing effects can only be measured in the years subsequent to enactment of tort reforms but once again, we ask you to compare Kansas to states like Nebraska, and yes even, California, where the impact of tort reform has had a beneficial effect in terms of stabilized medical malpractice liability premiums.

We thank you for your kind attention and respectfully request that you not recommend SB203 for passage.